

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARCUS WILLIAM LOWE,

Defendant.

NO. CR20-214-RSM

**PRELIMINARY
ORDER OF FORFEITURE**

THIS MATTER comes before the Court on the United States' Motion for a Preliminary Order of Forfeiture ("Motion") seeking to forfeit, to the United States, Defendant Marcus William Lowe's interest in the following property (collectively, the "Subject Property"):

1. An LG Stylo 5 smartphone in a red and black case, IMEI 355565100296865, seized from the Defendant on or about October 1, 2020, in Kirkland, Washington ("Subject Property 1"; and
2. A custom-built desktop computer with a Western Digital, 3 TB internal hard drive, serial number WCAWZ0822551, seized from the Defendant's residence on or about October 13, 2020 in Kirkland, Washington ("Subject Property 2").

1 The Court, having reviewed the United States' Motion, as well as the other papers
 2 and pleadings filed in this matter, hereby FINDS that entry of a Preliminary Order of
 3 Forfeiture is appropriate because:

- 4 • Subject Property 1 is forfeitable pursuant to 18 U.S.C. § 2428 as property
 5 that was used or intended to be used to commit or to facilitate the
 6 Defendant's commission of Attempted Enticement of a Minor, in violation
 7 of 18 U.S.C. § 2422(b);
- 8 • Subject Property 2 is forfeitable pursuant to 18 U.S.C. § 2253(a), as property
 9 that was used or intended to be used to commit or to promote the
 10 Defendant's commission of Possession of Child Pornography, in violation of
 11 18 U.S.C. § 2252(a)(4)(B), (b)(2); and,
- 12 • Pursuant to the Plea Agreement he entered on January 10, 2023, the
 13 Defendant agreed to forfeit the above-identified Subject Property pursuant to
 14 18 U.S.C. § 2428 and 18 U.S.C. § 2253(a), respectively. Dkt. No. 32, ¶ 12.

15 NOW, THEREFORE, THE COURT ORDERS:

16 1. Pursuant to 18 U.S.C. § 2428, 18 U.S.C. § 2253(a), and his Plea
 17 Agreement, the Defendant's interest in the above-identified Subject Property is fully and
 18 finally forfeited, in its entirety, to the United States;

19 2. Pursuant to Fed. R. Crim. P. 32.2(b)(4)(A)-(B), this Preliminary Order will
 20 be final as to the Defendant at the time he is sentenced, it will be made part of the
 21 sentence, and it will be included in the judgment;

22 3. The United States Department of Justice, the Federal Bureau of
 23 Investigation ("FBI"), and/or their authorized agents or representatives, shall maintain the
 24 above-identified property in its custody and control until further order of this Court. FBI
 25 shall destroy any prohibited images unless they have been destroyed already or will be
 26 retained for official, investigative use, as permitted by 21 U.S.C §§ 853(i) and 881(e);

4. Pursuant to Fed. R. Crim. P. 32.2(b)(6) and 21 U.S.C. § 853(n), the United States shall publish notice of this Preliminary Order and its intent to dispose of the property as permitted by governing law. The notice shall be posted on an official government website—www.forfeiture.gov—for at least thirty (30) days. For any person known to have alleged an interest in the property, the United States shall also, to the extent possible, provide direct written notice to that person. The notice shall state that any person, other than the Defendant, who has or claims a legal interest in the above identified property must file a petition with the Court within sixty (60) days of the first day of publication of the notice (which is thirty (30) days from the last day of publication), or within thirty (30) days of receipt of direct written notice, whichever is earlier. The notice shall advise all interested persons that the petition:

- a. shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the property;
- b. shall be signed by the petitioner under penalty of perjury; and
- c. shall set forth the nature and extent of the petitioner's right, title, or interest in the property, as well as any facts supporting the petitioner's claim and the specific relief sought.

5. If no third-party petition is filed within the allowable time period, the United States shall have clear title to the property, and this Preliminary Order shall become the Final Order of Forfeiture, as provided by Fed. R. Crim. P. 32.2(c)(2);

6. If a third-party petition is filed, upon a showing that discovery is necessary to resolve factual issues presented by that petition, discovery may be conducted in accordance with the Federal Rules of Civil Procedure before any hearing on the petition is held. Following adjudication of any third-party petitions, the Court will enter a Final Order of Forfeiture, pursuant to Fed. R. Crim. P. 32.2(c)(2) and 21 U.S.C. § 853(n), reflecting that adjudication; and

1 7. The Court will retain jurisdiction for the purpose of enforcing this
2 Preliminary Order, adjudicating any third-party petitions, entering a Final Order of
3 Forfeiture, and amending the Preliminary Order or Final Order as necessary pursuant to
4 Fed. R. Crim. P. 32.2(e).

5 IT IS SO ORDERED.

6
7 DATED this 3rd day of February, 2023.

8
9 

10 RICARDO S. MARTINEZ
11 UNITED STATES DISTRICT JUDGE

12
13
14 Presented by:

15 s/Krista K. Bush

16 KRISTA K. BUSH

17 Assistant United States Attorney

18 United States Attorney's Office

19 700 Stewart St., Suite 5220

20 Seattle, WA 98101

21 (206) 553-2242

22 Fax: 206-553-6934

23 Krista.Bush@usdoj.gov